

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 08-257
v.	*	SECTION: "L" (2)
ROY L. SCHMIDT, III	*	VIOLATION: 18 U.S.C. 371
	*	18 U.S.C. 922(g)(1)
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FACTUAL BASIS

Should this matter have gone to trial, the Government would have proved through the introduction of competent testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the Government in counts one and two of the indictment now pending against the defendant, **ROY L. SCHMIDT, III**, (hereinafter "**SCHMIDT**" or "defendant") to wit: conspiring to manufacture a firearm, that is, a destructive device commonly known as a pipe bomb, that was not registered to any of them in the National Firearms Registration and Transfer Record in violation of Title 26, United States Code Section 5861(d); all in violation of Title 18, United States Code, Section 371 and having been convicted of a crime punishable for a term exceeding one year, knowingly possessing in and affecting commerce a firearm, to wit: a destructive device, otherwise known as a pipe bomb in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

The following recounts the evidence would be adduced at trial which would show that on and before December 31, 2007, **SCHMIDT** agreed with Individual A to buy the component parts for, to construct, and for **SCHMIDT** to receive and possess a firearm, that is, a destructive device commonly known as a pipe bomb, that was not registered to any of them in the National Firearms Registration and Transfer Record in violation of Title 26, United States Code Section 5861 (d). On December 31, 2007, Individual A offered to purchase and did purchase, various steel pipe components, with funds provided in part by **SCHMIDT**, at two building supply stores. The steel pipe purchased was manufactured by Mueller in China and traveled in both foreign and interstate commerce to be stocked for sale in the Lowes Building Supply store located at 121 Jefferson Highway, Jefferson, Louisiana, and a Home Depot Building Supply store located at 800 South Clearview, Jefferson, Louisiana, both in the Eastern District of Louisiana, and to be found in Louisiana had affected foreign and interstate commerce in some manner in their transportation to this state . On December 31, 2007, **SCHMIDT** and Individual A each provided two different explosive powders for the explosive component for at least three pipe bombs. On December 31, 2007, at Individual A's residence located, in Harahan, Louisiana, in the Eastern District of Louisiana, **SCHMIDT**, Individual A and Individual B, constructed, from the component parts **SCHMIDT** and Individual A purchased, three closed black gas metal pipe pieces, which they filled with black powder, and inserted a fuse designed to cause the black powder in each metal pipe piece to explode (hereinafter referred to as "pipe bomb"). That after the completion of the three pipe bombs, **SCHMIDT** took possession of one of the pipe bombs.

An expert with the Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, ("ATFE"), would testify that he examined the shards of metal pipe recovered from

the site of an explosion which took place around midnight/the early morning of January 1, 2008, on the hood/windshield of a vehicle located at 832 Rosa Avenue, Metairie, Louisiana, in the Eastern District of Louisiana. The examination revealed that the shards of steel pipe matched that manufactured by Mueller Industries Incorporated in China and imported into the United States.

An expert with ATFE would testify that the examined the explosive powder residue recovered from the pipe bomb referred to above and determined that the explosive powder used to construct the pipe bomb was a black powder substitute propellant consistent with that produced by American Pioneer Powder Company or the Hodgdon Powder company and that American Pioneer Powder Company manufactures/produces its explosive powders in Herrington, Kansas and that American Pioneer Powder Company manufacturers/produces its explosive powders, branded as American Pioneer Powder and Jim Shockey's Gold at in Whitewater, Colorado and to be found in Louisiana have affected interstate commerce in some manner in their transportation to this state.

An expert with ATFE would testify that based on the above laboratory analysis of the component parts and a reconstruction of the device indicated that the device was constructed of two (2) , 1" ID X 2" black steel pipe couplings (internally threaded), joined together by a 1" by 2" piece of all-thread black steel pipe nipple, being capped at each end by two (2) 1" externally threaded hex caps and that the device was fused through a small hole drilled into the all-thread pipe nipple between the couplings resulting in a device measuring approximately 2" by 6" inches and containing low explosive powder. Additionally, that the device manufactured and possessed by **SCHMIDT** and others on December 31, 2007, meets the definition of a firearm under Title

18, United States Code, Sections 922(g)(1) and Title 26, United States Code, Sections 5845 and 5861(d).

A notary public would testify that on July 29, 2008, he notarized an authentic act, signed by Roy Louis Schmidt the III, admitting, after advice of rights, to the, “Pipe bombing on or about 1/1/08 of a vehicle” at a certain address. An agent of ATFE would testify that the name of vehicle’s owner in the affidavit matches the owners name at the address from which the pipe bomb component’s discussed herein were discovered.

An ATF agent would testify, that devices such as the pipe bomb manufactured by **SCHMIDT**, Individual A and Individual B and possessed by **SCHMIDT** on December 31, 2007 meets the definition of destructive device defined in Title 26, United States Code, Section 5845, and as such, is required to be registered in the National Firearms Act (NFA) Records pursuant to Title 26, United States Code, Sections 5841 et. seq., identifying the device, the date of registration and the identification and address of the person entitled to possession of the firearm. That he caused such a search to be made of the NFA records to determine if any devices were registered to either **SCHMIDT**, Individual A or Individual B pursuant to the NFA and that the search indicated that no devices had been registered by any person matching **SCHMIDT**, Individual A or Individual B, on or before July 16, 2008.

Deputy Clerk’s of Court would testify that, the defendant, **ROY L. SCHMIDT, III**, had prior to December 31, 2008, been convicted of a several crimes punishable by imprisonment for a term exceeding one year, to wit: a conviction on March 11, 1998, in the United States District Court for the Eastern District of Louisiana, case number 97-CR-0288, for stealing firearms from a federally licensed firearms dealer in violation of Title 18, United States Code, Section 922(u);

and, a conviction on or about March 21, 1994, in the Twenty-fourth Judicial District for the Parish of Jefferson, Case No. 94-702, “F” for attempted armed robbery in violation of LA-R.S. 14:27;and, a conviction on or about May 8, 1997, in the Twenty-second Judicial District for the Parish of St. Tammany, Case No. 264073, “E” for simple burglary of an inhabited dwelling in violation of LA-R.S. 14:62.2.

A fingerprint expert would testify that he examined the fingerprints taken of the defendant convicted of the aforesaid felonies and positively matched them with the fingerprints of **SCHMIDT**, the defendant indicted herein.

TONY GORDON SANDERS
Assistant United States Attorney
Louisiana Bar Roll No. 11705

Date

ROMA A. KENT
Counsel for Defendant
Louisiana Bar Roll No. _____

Date

ROY L. SCHMIDT, III, Defendant

Date